

REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. The foregoing amendments are supported by, at least, the original claims and paragraph [0092] of the specification. No new matter has been added.

Amendments

Claims 1 and 9 have been amended. Claims 2-7 have been cancelled. Claims 10-12 have been added. Claim 8 is withdrawn. The amendment of claim 9, now withdrawn, and the addition of claims 11-12 are made in anticipation of the withdrawn claims being rejoined. All amendments and cancellations are made without prejudice to pursuing the subject matter in another application.

Objections to the Abstract and Specification

At pages 2-3 of the Office Action, the Abstract was objected to because it allegedly contains errors. Applicant respectfully requests reconsideration of this objection.

The Abstract and Specification have been amended to correct several typographical errors. Applicants appreciate the Examiner's noting these errors in the previous Office Action. The Specification has been further reviewed and is believed to be free of typographical errors.

For at least the foregoing reasons, Applicant respectfully submits that the Abstract and Specification are not objectionable, and therefore respectfully requests withdrawal of the objection thereto.

Objection to the Claims

At page 3 of the Office Action, Claims 1-4 were objected to because they

allegedly contain typographical errors. Applicant respectfully requests reconsideration of this objection. The typographical error has been deleted from the claim. For at least the foregoing reasons, Applicant respectfully submits that the Claims are not objectionable, and therefore respectfully requests withdrawal of the objection thereto.

Rejection under 35 U.S.C. § 112, second paragraph

In the Office Action, beginning at page 4, Claims 1-6 were rejected under 35 U.S.C. § 112, second paragraph, as reciting subject matters that allegedly are indefinite. Applicant respectfully requests reconsideration of this rejection.

The allegedly indefinite language in claim 1 has been deleted, and claims 2-7 have been cancelled.

For at least the foregoing reasons, Applicant respectfully submits that the Claims fully comply with 35 U.S.C. § 112, second paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

Rejection under 35 U.S.C. § 112, first paragraph

In the Office Action, beginning at page 6, Claims 1-7 were rejected under 35 U.S.C. § 112, first paragraph, as reciting subject matters that allegedly fail to comply with the written description requirement. Applicant respectfully requests reconsideration of this rejection.

The Office Action asserts that an undescribed genus of proteins is encompassed by the claims. Although Applicants do not necessarily agree with this assertion, claim 1 has been amended to recite that the bacterium contains a DNA which encodes a protein which “comprises the amino acid sequence of SEQ ID NO: 10.” It is clear that this DNA and the protein it encodes are adequately described, as the sequence is present in the Sequence Listing.

For at least the foregoing reasons, Applicant respectfully submits that the Claims

fully comply with 35 U.S.C. § 112, first paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

In the Office Action, beginning at page 9, Claims 1-7 were rejected under 35 U.S.C. § 112, first paragraph, as reciting subject matters that allegedly fail to comply with the scope of enablement requirement. Applicant respectfully requests reconsideration of this rejection.

The Office Action asserts that the specification does not enable any person skilled in the art to make and/or use the invention commensurate in scope with the claims. Although Applicants do not necessarily agree with this assertion, claim 1 has been amended to recite that the bacterium contains a DNA which encodes a protein which “comprises the amino acid sequence of SEQ ID NO: 10.” Furthermore, claim 10 has been added, and recites the species the Office Action indicates as being enabled, that is, the bacterium which comprises and expresses the polynucleotide of SEQ ID NO: 9. It is clear that the DNA species, and the protein that it encodes, that is, the amino acid sequence of SEQ ID NO: 10, are completely and adequately enabled by the specification.

For at least the foregoing reasons, Applicant respectfully submits that the Claims fully comply with 35 U.S.C. § 112, first paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.


Conclusion

For at least the foregoing reasons, Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Ramirez believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, she is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account 50-2821.

Respectfully submitted,

By: 

Shelly Guest Cermak
Registration No. 39,571

U.S. P.T.O. Customer No. 38108
Cermak & Kenealy, LLP
515 E. Braddock Road, Suite B
Alexandria, VA 22314
703.778.6608

Date: March 22, 2007